

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

KATHRYN LEE CHESBRO,)	
)	
Plaintiff,)	
)	
v.)	No. CIV-14-441-FHS-KEW
)	
CAROLYN W, COLVIN ¹ ,)	
Acting Commissioner Social)	
Security Administration,)	
)	
Defendant.)	

ORDER

On March 15, 2016, the United States Magistrate Judge for this District filed a Report and Recommendation in this case. An objection was filed by Plaintiff on March 28, 2016. In this objection, Plaintiff objected to certain findings of facts and omissions, findings based on unpublished opinions concerning the persuasive effect of Plaintiff's GAF and the Report and Recommendation's conclusions and reasoning finding that the Plaintiff's mental impairments do not meet or equal the Listing 12.04 found at pages 6 and 7 of the Report and Recommendation. On April 8, 2016, Defendant filed a response to this objection. In the response, Defendant argued that the ALJ's decision was supported by substantial evidence and legally correct. As a

¹The Court has been informed by Defendant that on February 14, 2013, Carolyn W. Colvin became the Acting Commissioner of Social Security. Pursuant to Rule 25 (d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin is automatically substituted for Michael J. Astrue as the defendant in this action. Thus, this suit will proceed with this substitution in effect. See 42 U.S.C. Sec. 405 (g) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.")

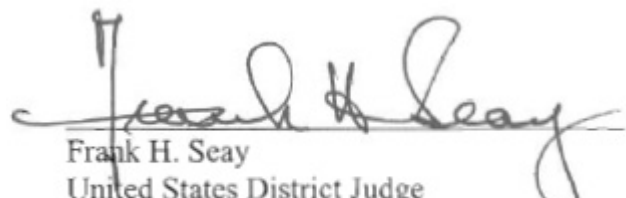
result, this Court should adopt the findings in the Report and Recommendation which suggests this court should affirm the decision of the Commissioner.

The court has reviewed the objection and overrules it. First, Plaintiff fails to establish how the omission of certain findings of facts was an error or how this error caused her harm. Second, the Plaintiff objects to the "findings reasoning concerning persuasive use of her GAF based on unpublished opinions". However, Plaintiff admits unpublished opinions can be used for their persuasiveness. Thus, the court finds no merit to this argument. Finally, Plaintiff objects to the recommendation that the Court find her mental impairments did not meet or equal the requirements of section 12.04 of the Listings. However, the court finds the evidence did not support a finding that any of her impairments met the requirements of any section of the Listing.

The Report and Recommendation found the decision by the defendant should be **AFFIRMED**. This Court finds the Report and Recommendation of the Magistrate Judge applied the proper standards and documents numerous references to the record which support the recommendation of the Magistrate Judge that the Commissioner's decision be **SUSTAINED**.

Upon consideration of the entire record and the issues herein, this Court finds and orders that the Report and Recommendation of the United States Magistrate Judge be **SUSTAINED** and adopted by this Court as this Court's Findings and Order.

IT IS SO ORDERED this 12th day of April, 2016.


Frank H. Seay
United States District Judge
Eastern District of Oklahoma